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September 4, 1997

VIA TELECOPY (Fax: 302/739-4849)

Gary A. Myers
Connie S. McDowell
John Citrolo
The Public Service Commission
1560 South Dupont Highway
Dover, DE 19901

Re: P.S.C. Docket No. 97-147

Dear Ms. McDowell and Messrs. Myers and Citrolo:

This follows up on our recent telephone conversation discussing the issue of whether NAS's planned special access service is jurisdictionally an interstate service. In that conversation, PSC staff speculated that the service may be intra-state special access since it will be used to access an interstate information service rather than an interstate telecommunications service. I believe this fact is irrelevant to determining whether the NAS service is jurisdictionally interstate as I explained during our telephone conversation. Because of the FCC's "policy that all generic transmission channels ought to be provided under integrated rate structures",^{1/} that agency has held that a carrier providing any local private line service is offering jurisdictionally interstate service if that line is used to transmit information to another state.^{2/} This policy of classifying any local private line service used to transmit information to another state as a jurisdictionally interstate service

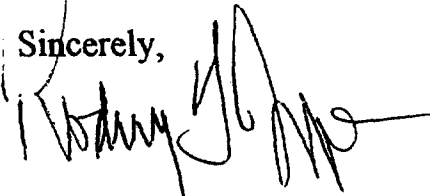
^{1/} Investigation of Access and Divestiture Related Tariffs, 57 Rad. Reg. (P&F) 2d 188, 219 (1984).

^{2/} Id. at 218-19.

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necessarily applies both to a local private line service used to provide "exchange access" and to a local private line service used to provide "information access."^{3/}

Sincerely,



Rodney L. Joyce
Counsel for Network
Access Solutions, Inc.

cc: Bonnie Wolfgang (Bell Atlantic)
Bruce H. Burcat (PSC Exec. Dir.)

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^{3/} See 47 U.S.C. §251(g) (referring to both exchange access service and information access service and requiring LECs to provide both types of service in accordance with AT&T consent decree). Sec IV(I) of the AT&T consent decree defined "information access" service as "the provision of . . . services . . . in an exchange area in connection with the origination . . . of telecommunications traffic to . . . the facilities of a provider of information services." Sec. IV(F) of the decree defined "exchange access" service as "the provision of . . . services for the purpose of originating . . . interexchange telecommunications." 552 F. Supp. at 228-29. Under these definitions, NAS's planned service is an information access service.

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September 10, 1997

By Federal Express

Gary A. Myers
Connie S. McDowell
John Citrolo
The Public Service Commission
1560 South Dupont Highway
Dover, DE 19901

Re: P.S.C. Docket No. 97-147

Dear Ms. McDowell and Messrs. Myers and Citrolo:

This supplements my letters of August 22, 1997 and September 4, 1997, in order to further document their core point – that NAS's planned special access service is jurisdictionally an interstate service since it will permit the company's Delaware customers to originate transmissions that terminate on Internet host computers located in other states.

As I am sure you know, the Association of Local Telecommunications Services ("ALTS") has asked the FCC to issue a ruling on the question of whether the reciprocal compensation requirement of Section 251(b)(5) of the Communications Act, 47 U.S.C. §251(b)(5), requires one LEC to compensate a competing LEC when the latter delivers a call originated by a customer of the former to the local POP of an ISP.^{1/} As the briefs on both sides show, resolving that issue will require the Commission to explain what it meant in its first Local Competition order when it held that the reciprocal compensation requirement in Section 251(b)(5) applies only to the delivery of "local" calls.^{2/}

^{1/} The FCC assigned file number CCB/CPD 97-30 to the ALTS petition, and it invited interested parties to file written comments. See FCC Public Notice, DA 97-1399 (rel. July 2, 1997).

^{2/} See Implemen. of the Local Competition Provisions in the Telecommun. Act of 1996, First Report and Order, 11 FCC Rcd. 15499, 16013-14 (1996).

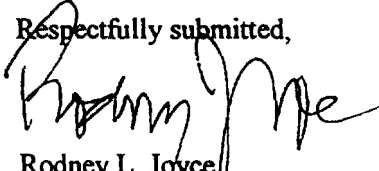
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Regardless of whether telecommunications traffic transmitted to an ISP's local POP is "local" for purposes of Section 251(b)(5) – an issue about which NAS expresses no view – it is significant that in the course of debating that issue, numerous parties also commented on the question of whether a telecommunications service that connects an end user to the local POP of an ISP is jurisdictionally an interstate access service. Significantly, no one who commented directly on this jurisdictional issue argued that such traffic is jurisdictionally intrastate. By contrast, numerous commenters, including ALTS itself, recognized that a service of this sort is jurisdictionally interstate:

"While [ILECs] claim . . . that ALTS is seeking to place local calls to ISPs within the state's exclusive jurisdiction . . . [t]his . . . is completely false".^{3/}

Comments filed by AT&T, Compuserve, Time Warner, Adelphia and 12 other cable MSOs, Ameritech, BellSouth, and Bell Atlantic are particularly instructive on the jurisdictional issue of interest to NAS. As a result, I am enclosing a copy of these comments for the record in this proceeding.

Respectfully submitted,



Rodney L. Joyce
Counsel for Network
Access Solutions, Inc.

Enclosures

Cc (w. encls.): Bonnie Wolfgang (Bell Atlantic)
(by Federal Express)

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